

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CURTIS LEE DALE,)	
)	CASE NO. 4: 24 CV 692
Petitioner,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
WARDEN I. HEALY,)	
)	<u>MEMORANDUM OF OPINION</u>
Respondent.)	<u>AND ORDER</u>

I. Background

Pro se Petitioner Curtis Lee Dale, a federal prisoner incarcerated at FCI Elkton, has filed a Petition for a Writ of *Habeas Corpus* under [28 U.S.C. § 2241](#). [ECF No. 1](#). In his Petition, he complains about a \$500 disciplinary fine imposed upon him.

He claims that “[i]t is extortion that [the Bureau of Prisons or BOP] be allowed to fine inmates up to \$500 just because they had a fight or use a cell-phone, not because of any damage to property,” and that if “you don’t sign off on the extortion policy they freeze your funds until you are released.” [ECF No. 1 at PageID #: 7, ¶13](#).

In addition, he claims the fine imposed on him violates the BOP’s “incumbrance [sic] funds policy,” lacks “transparency,” and that there is bias and racial discrimination in how the “DHO Disciplinary Hearing Officer gets to pick and choose who deserves a fine.” [ECF No. 1 at PageID #: 7-8, ¶13](#).

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On his civil cover sheet, Petitioner indicates he asserts the violation of his Eighth Amendment rights. For relief, he asks the Court “to stop this bias and discriminative [sic] extortion policy based on race, color, creed, and/or dollar amount on your books,” “make the BOP follow [its] own policy not to take money from pre-release accounts” and to “show transparency as to where this money goes,” and “to have the BOP release [his] \$500 they have fro[zen].” [ECF No. 1 at PageID #: 8, ¶ 15](#).

On May 3, 2024, Petitioner filed what he labeled as an “Amended Complaint” in the case, in which he complains that a Unit Manager has taken his mail and property and asks for an order requiring that his property be returned. [ECF No. 2](#).

II. Standard or Review

A federal district court must conduct an initial review of *habeas corpus* petitions. See [28 U.S.C. § 2243](#); [Alexander v. Northern Bureau of Prisons](#), 419 Fed. App'x 544, 545 (6th Cir. 2011). A court must dismiss a petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief.” Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts (applicable to petitions under § 2241 pursuant to Rule 1(b)). If so, the Court must summarily dismiss the petition. See [Allen v. Perini](#), 424 F.2d 134, 141 (6th Cir. 1970) (the district court has a duty to “screen out” *habeas corpus* petitions that lack of merit on their face).

III. Discussion

Upon review, the Court finds that the Petition must be dismissed because it does not raise a claim cognizable under [§ 2241](#). The only claims a federal prisoner may assert in a [§ 2241](#)

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petition are those that challenge the execution of a sentence, such as the manner in which the BOP has computed a prisoner's sentence credits or determined his parole eligibility. Capaldi v. Pontesso, 135 F.3d 1122, 1123 (6th Cir. 1998) (citing United States v. Jalili, 925 F.2d 889, 893 (6th Cir. 1991)). Section 2241, however, "is not the proper vehicle for a prisoner to challenge conditions of confinement" during otherwise legal incarceration. Luedtke v. Berkebile, 704 F.3d 465, 466 (6th Cir. 2013); Sullivan v. U.S., 90 F. App'x 862, 863 (6th Cir. 2004) ("[Section] 2241 is a vehicle not for challenging prison conditions, but for challenging matters concerning the execution of a sentence").

Petitioner's claims do not pertain to the execution of his sentence but, instead, pertain to conditions of his confinement and are not challenges that may be brought under § 2241. In order to challenge the conditions of which he complains, Petitioner must file a civil rights action under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). See Luedtke, 704 F.3d at 466; Sullivan, 90 F. App'x at 863 (construing conditions-of-confinement claims as properly brought in a civil action under *Bivens*). To do so, Petitioner must file a complaint in new case, and either pay the \$405 filing fee applicable to such actions or file an application to proceed *in forma pauperis* in accordance with 28 U.S.C. § 1915.

IV. Conclusion

In accordance with the foregoing, the Petition is dismissed without prejudice pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing *Habeas Corpus* Cases. See Martin v. Overton, 391 F.3d 710, 714 (6th Cir. 2004) (holding that the district court should dismiss an improperly-filed § 2241 petition without prejudice to allow the petitioner to re-file his claims in a

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civil rights case). The Court further certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

June 12, 2024
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge